

IN RE:)	
)	
MAINE COMMUNITY HEALTH)	ORDER ON MAINE COMMUNITY
OPTIONS 2017 INDIVIDUAL RATE)	HEALTH OPTIONS REQUEST FOR
FILING)	CONFIDENTIALITY
)	
Docket No. INS-16-1002)	
)	

In its Motion, CHO asserts that the Information should be treated as confidential and exempt from disclosure under the Maine Freedom of Access Act, 1 M.R.S. §§ 401-414 (“FOAA”). Specifically, CHO contends that FOAA exempts from public disclosure any documents that would be within the scope of a privilege recognized under Maine law. Presumably, CHO is referring to 1 M.R.S. § 402(3)(B), which exempts from the definition of “public records” (and therefore from disclosure pursuant to FOAA) any “records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials....” CHO contends that the Information sought to be protected qualifies for privilege under Maine law as a “trade secret” and is therefore exempt from disclosure pursuant to § 402(3)(B).

A filing and all supporting information, except for protected health information required to be kept confidential by state or federal statute and descriptions of the amount and terms or conditions or reimbursement in a contract between an insurer and a 3rd party are public records **notwithstanding Title 1, section 402, subsection 3, paragraph B** and become part of the official record of any hearing held pursuant to section 2736-A.

24-A M.R.S. § 2736 (emphasis added). By its plain terms, Section 2736 explicitly excludes the protections of 1 M.R.S. § 402(3)(B) for information filed during the course of a rate proceeding. Therefore, even if the Information qualifies as a trade secret under Maine law, it must be treated as a public record, as § 402(3)(B) is not applicable in the context of rate proceedings pursuant to 24-A M.R.S. § 2736. Therefore, the Information cannot be treated as confidential, and CHO's Motion is hereby DENIED. The Superintendent will make the Information publicly available beginning June 30, 2016; subject, however, to CHO's right to seek judicial review of this Order in advance thereof.

PER ORDER OF THE SUPERINTENDENT OF INSURANCE

June 17, 2016



ERIC A. CIOPPA
Superintendent of Insurance